

## **NON-DISCLOSURE AGREEMENT**

This Non-Disclosure Agreement ("Agreement") is made and entered into this xx day of xx, 2012 by and between **SamKnows Limited**, a corporation registered in the United Kingdom, Company No. 06510477, and **[Party's name and legal status]**, a Delaware limited liability company (each referred to herein as a "Party" and collectively as the "Parties").

- 1. Disclosure.** The Parties or their respective Affiliates intend to engage in discussions concerning a potential business transaction, and may in the future engage in discussions concerning other transactions (each a "Proposed Transaction"). In connection therewith, the Parties or their respective Affiliates may disclose to each other technical, financial and/or other information, material, or data which is written, oral or in any other form, electronic or otherwise which is considered confidential and proprietary. An "Affiliate" shall mean any entity which controls, which is controlled by, or which is under common control with a Party.
- 2. Confidential Information.** "Confidential Information" means any information owned or disclosed by or on behalf of a Party or any of its Affiliates (the "Disclosing Party") (a) that is marked as confidential, proprietary, or with a similar legend; (b) that is otherwise confirmed to be confidential or proprietary; or (c) that the Party or its Affiliate receiving the information (the "Receiving Party") should reasonably believe to be confidential based upon its content, including, without limitation, any customer information, materials, trade secrets, know-how, formulas, processes, algorithms, ideas, strategies, inventions, data, network configurations, system architecture, designs, flow charts, drawings, proprietary information, business and marketing plans, financial and operational information, and any other non-public information, material or data relating to the past, current and/or future business and operations of the Disclosing Party. Confidential Information shall include any analyses, compilations, studies, summaries, extracts or other documentation prepared by the Receiving Party based on Confidential Information (collectively, "Studies").
- 3. Public Information.** Notwithstanding any other provision of this Agreement, information shall not be, or shall cease to be, Confidential Information hereunder: (a) if such information is known to the Receiving Party, without restriction, prior to disclosure thereof by the Disclosing Party, as demonstrated by written records in existence at the time of disclosure; (b) after such information is published or becomes available to others, without restriction and without breach of this Agreement by the Receiving Party; (c) after such information becomes available to the Receiving Party from others who are not in breach of any obligation to hold such information in confidence (to the best of the Receiving Party's knowledge, after reasonable inquiry); or (d) if such information is developed by the Receiving Party independent of any disclosure of such information by the Disclosing Party and without any use of the Confidential Information of the Disclosing Party, as demonstrated by written records created at the time of such independent development.

**4. Non-disclosure Obligation.** Unless otherwise agreed to in writing by the Disclosing Party, the Receiving Party agrees (a) not to disclose, or permit its Affiliates to disclose, Confidential Information, or the existence of this Agreement and/or the discussions relating to the Proposed Transaction; (b) to use the same degree of care and diligence to protect Confidential Information from disclosure to others as the Receiving Party employs or should reasonably employ to so protect its own information of like confidence (but in no event less than reasonable care); (c) not to use, reproduce or copy the Confidential Information, in whole or in part, except as necessary for the evaluation or conduct of the Proposed Transaction; and (d) to immediately notify the Disclosing Party upon discovery of any loss or unauthorized disclosure of the Confidential Information by the Receiving Party. Notwithstanding the foregoing, the Receiving Party may disclose the Confidential Information to such of the Receiving Party's Affiliates or the employees, consultants, legal and tax advisers, and agents of the Receiving Party or its Affiliates (each a "Receiving Party Representative") which the Receiving Party reasonably and in good faith believes are needed to be involved in the evaluation or performance of the Proposed Transaction, provided such Receiving Party Representative is informed of this Agreement and agrees to be bound by the terms hereof, and the Receiving Party uses best efforts to cause the Receiving Party Representative to observe the terms of this Agreement. The Receiving Party agrees that a breach of this Agreement by a Receiving Party Representative shall constitute a breach of this Agreement by the Receiving Party. In the event that the Receiving Party is required by applicable law, rule, regulation or lawful order or ruling of any court, government agency or regulatory commission to disclose any Confidential Information, the Receiving Party agrees that it will provide the Disclosing Party with prompt notice of such requirement to enable the Disclosing Party to seek an appropriate protective order or to take steps to protect the confidentiality of such Confidential Information, and in the event such protection is not obtained or the Disclosing Party waives compliance with the provisions of this Agreement, the Receiving Party agrees that it will disclose only that portion of the Confidential Information which it is legally required to disclose.

**5. No Additional Rights.** Unless otherwise agreed in writing, the Receiving Party shall not have any rights or obligations respecting the Confidential Information other than those specifically set forth in this Agreement. Without limiting the generality of any other provision of this Agreement, and unless otherwise agreed in writing: (a) no license is hereby or otherwise granted, directly or indirectly, under any patent, copyright or other proprietary right of the Disclosing Party; and (b) neither Party shall be obligated to disclose information to the other Party or to enter into any further agreements relating to the Proposed Transaction or any information. Unless otherwise agreed in writing, a Party and its Affiliates may terminate discussions regarding the Proposed Transaction at any time. The Receiving Party's obligations under this Agreement respecting the Confidential Information shall survive termination of such discussions. The Disclosing Party shall have no right to review, copy or otherwise access the Studies prepared by the Receiving Party.

**6. Disposition of Confidential Information.** The Receiving Party shall, upon written request of the Disclosing Party, either, at the Disclosing Party's election, (a) return to the Disclosing Party all Confidential Information (other than the Studies), including all copies thereof; or (b) destroy all Confidential Information (including the Studies) and provide the Disclosing Party with written certification thereof.

7. **Injunctive Relief.** Each Party acknowledges and agrees that the unauthorized disclosure of the Confidential Information by the Receiving Party may cause irreparable harm to the Disclosing Party. As a result thereof, in addition to any other remedies available, the Disclosing Party shall be entitled to seek injunctive and other extraordinary relief in a court of competent jurisdiction in order to enforce the Receiving Party's obligations hereunder.
8. **Export Laws.** The Parties acknowledge that the export laws of the United States may apply to the export of information disclosed hereunder outside of the United States, and each Party shall be solely responsible for compliance therewith.
9. **Third Party Beneficiary.** The Parties agree that the Federal Communications Commission shall enjoy third party beneficiary rights under this agreement, and may exercise and enforce all rights held by the Disclosing Party.
10. **Other Provisions.** The Parties further agree that, unless otherwise agreed in writing: (a) this Agreement shall be governed by the laws of the District of Columbia; (b) this Agreement sets forth the entire agreement and understanding between the Parties with respect to the subject matter hereof, and none of the terms of this Agreement may be amended or modified except by a written instrument signed by both Parties; (c) a Party may waive any rights under this Agreement only by written waiver duly signed by such Party, and no failure to exercise or delay in exercising a right under this Agreement shall constitute a waiver of such right; (d) the rights and obligations of each Party under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the consent of the other Party and any such attempt shall be void, and this Agreement shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns; (e) no provision of this Agreement shall affect, limit or restrict either Party's right to engage in any business in any place and at any time, whatsoever, provided the Receiving Party does not use, reproduce, copy or disclose the Confidential Information in violation of this Agreement; (f) EACH PARTY HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE CONFIDENTIAL INFORMATION IT DISCLOSES HEREUNDER, INCLUDING BUT NOT LIMITED TO, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TITLE OR NON-INFRINGEMENT THEREOF; (g) the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement; (h) all notices under this Agreement must be in writing and shall be deemed to have been delivered to and received by a Party, and will otherwise become effective, on the date of actual delivery thereof (by personal delivery, express delivery service or certified mail) to the Notice Address of such Party set forth below; (i) this Agreement may be executed in counterparts; and (j) signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures.

\_\_\_\_\_ [PARTY NAME] \_\_\_\_\_

**SamKnows Limited**

By: \_\_\_\_\_

(Signature)

By: \_\_\_\_\_

(Signature)

Printed

Name: \_\_\_\_\_

Printed

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Notice Address:

Notice Address:

94 New Bond Street

London W1S 1SJ

Attn:

UNITED KINGDOM

Attn: Sam Crawford